

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

COMPETITIVE PRODUCT PRICES
PRIORITY MAIL
PRIORITY MAIL CONTRACT 168

Docket No. MC2016-42

COMPETITIVE PRODUCT PRICES
PRIORITY MAIL CONTRACT 168 (MC2016-42)
NEGOTIATED SERVICE AGREEMENT

Docket No. CP2016-51

**NOTICE OF THE UNITED STATES POSTAL SERVICE OF
FILING ERRATA TO REQUEST**
(January 7, 2016)

The United States Postal Service hereby provides notice of filing revised Attachments B and D to its request, which was originally filed in this docket on December 15, 2015. Attachment B contains the redacted shipping services contract, and Attachment D contains the Postal Service's statement of supporting justification. The revised Attachments B and D are attached to this pleading. No other changes to the Postal Service's request have been made.

Respectfully submitted,

UNITED STATES POSTAL SERVICE
By its attorneys:

Daniel J. Foucheaux, Jr.
Chief Counsel, Pricing and Product Support

Elizabeth A. Reed

475 L'Enfant Plaza West, S.W.
Washington, D.C. 20260-1137
(202) 268-3179, Fax -6187
elizabeth.a.reed@usps.gov
January 7, 2016

**ATTACHMENT B TO REQUEST
REDACTED SHIPPING SERVICES CONTRACT
(Revised January 7, 2016)**

**SHIPPING SERVICES CONTRACT
BETWEEN
THE UNITED STATES POSTAL SERVICE
AND**

**REGARDING
PRIORITY MAIL SERVICE**

This contract for shipping services is made by and between [REDACTED] a corporation organized and existing under the laws of [REDACTED] with its principal office at [REDACTED] ("Customer"), and the United States Postal Service ("the Postal Service"), an independent establishment of the Executive Branch of the United States Government established by the Postal Reorganization Act, Public Law 91-375, with its principal office at 475 L'Enfant Plaza, SW, Washington, DC 20260. The Postal Service and Customer are referred to herein collectively as the "Parties" and each as a "Party".

WHEREAS, it is the intention of the Parties to enter into a Shipping Services Contract (SSC) that will benefit the Postal Service, the postal system as a whole, and Customer, and that will comply with the requirements of Title 39 United States Code, as amended by the Postal Accountability and Enhancement Act of 2006.

NOW, THEREFORE, the Parties agree as follows:

I. Terms

The following terms apply as of the effective date, as defined below:

- A. Except to the extent different terms or prices are specified in this contract, applicable provisions of the Domestic Mail Manual (as may be regularly updated by the Postal Service and posted at http://pe.usps.com/text/dmm300/dmm300_landing.htm) and of other postal laws and standards apply to mail tendered under this contract.
- B. This contract applies to Customer's Priority Mail packages [REDACTED] tendered to the Postal Service for same day delivery in accordance with Section I.F below, within the eligible ZIP Codes in Attachment A (such packages, collectively, "Contract Packages").
- C. Customer will utilize USPS approved manifest software, ePostage, PC Postage, or eVS (Electronic Verification System) as its postage payment methods for its Contract Packages.
 - 1. The Postal Service hereby agrees to provide Customer with a statement to support the calculation of postage due to the Postal Service as a result of discrepancies

between the PC Postage or the postage paid through eVS administered by the Postal Service, and the actual postage due to the Postal Service under this contract.


2. The Customer hereby agrees to pay postage due to the Postal Service as a result of discrepancies between the PC Postage or postage paid through eVS applied by Customer's, and the actual postage due to the Postal Service under this contract.

D. Volume Commitment. Customer agrees to ship a minimum of [REDACTED] Contract Packages per week under this contract.

E. The Postal Service will not provide Customer with Priority Mail packaging.

F. The terms and prices contained herein will take effect on the effective date as defined in Section III:





II. Annual Adjustment

- A. For subsequent years of this Contract, beginning on the first anniversary of this Contract's effective date and on each anniversary thereafter, the customized prices in this Contract in Section I.F.4 will be the previous year's prices plus the most recent (as of the anniversary date) average increase in prices of general applicability, as calculated by the Postal Service, for Priority Mail Commercial Base.
- B. Customized prices for the subsequent years will be calculated by the Postal Service and rounded up to the nearest whole cent.

III. Regulatory Review and Effective Date

This contract is subject to approval by Postal Service senior management and/or the Governors of the Postal Service as well as by the Postal Regulatory Commission ("the Commission"). In accordance with Title 39 and the Commission's Rules of Practice and Procedure, the Postal Service will make required filings with the Commission. The effective date of this contract shall be two (2) business days following the day on which the Commission issues all necessary regulatory approval. For the purposes of this SSC, business days are defined as Monday through Friday, excluding federal holidays and days on which the Postal Service Headquarters is administratively closed.

IV. Expiration Date and Termination

This contract shall expire three (3) years from the effective date, unless (1) terminated by either Party with thirty (30) days' notice to the other Party in writing, (2) renewed by mutual agreement in writing, (3) superseded by a subsequent contract between the Parties, (4) ordered by the Commission or a court, or (5) required to comply with subsequently enacted legislation.

If, at the conclusion of this contract term, both parties agree that preparation of a successor SSC is active, the SSC will be extended for up to two (2) ninety (90) day periods with

official notification to the Commission within at least seven (7) days of the contract's expiration date. Upon both parties agreement of the extension, the escalation clause will be implemented in Section II, throughout the extension period.

V. Appeals

Customer may appeal a Postal Service decision regarding the calculation of prices, the amount of postage paid, or other implementation or operational issues under this contract by submitting a written appeal within thirty (30) days of receipt of notification of the determination giving rise to the appeal to: Manager, Pricing and Classification Service Center (PCSC), 90 Church St. Ste. 3100, New York, NY 10007-2951 ((212) 330-5300 / Fax: (212) 330-5320). The decision of the PCSC Manager will be administratively final. Any decision that is not appealed as prescribed becomes the final Postal Service decision.

VI. Confidentiality

Neither Party shall make public the terms of this contract, except to the extent required by law. The Postal Service shall request that the Commission, in executing its functions under the Act, not disclose Customer's identity, the terms of this contract, or supporting data, in accordance with the Commission's rules and practices.

VII. Assignment

Neither Party may, or shall have the power to, assign its rights under the contract or, delegate its obligations hereunder, without the prior consent of the other; such consent is not to be unreasonably withheld. In addition, in the event that Customer is merged with or into or acquires another entity, pricing under this contract following such merger or acquisition shall apply only to mail sent by the entity existing prior to the merger or acquisition. Following any such merger or acquisition, the parties may negotiate in good faith to extend, modify or enter into a new contract applicable to the merged or acquired entity.

VIII. Amendments

This contract shall not be amended except expressly, in writing, by authorized representatives of the Parties.

IX. Waiver

Any waiver by a Party shall not constitute a waiver for any future occurrence. No waiver shall be valid unless set forth in writing executed by the Party waiving such provision.

IN WITNESS WHEREOF, the Parties hereto have caused this contract to be duly executed as of the later date below:

UNITED STATES POSTAL SERVICE

Signed by: _____

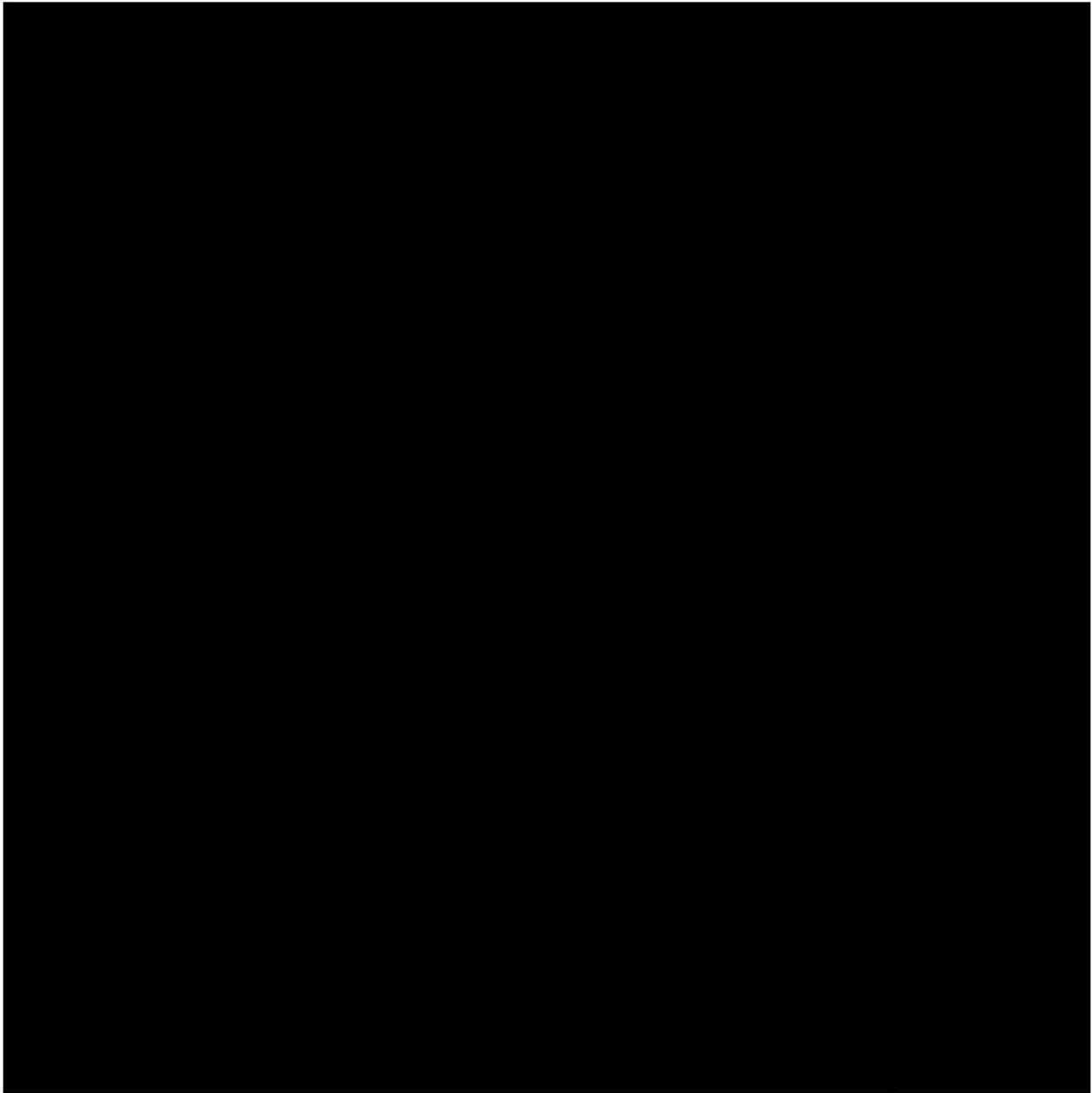
Printed Name: _____

Title: _____

Date: _____

[Signature]
Cliff Rucker
VP Sales
12/8/15

Attachment A: Eligible ZIP Codes [REDACTED]



**ATTACHMENT D TO REQUEST
STATEMENT OF SUPPORTING JUSTIFICATION
(Revised January 7, 2016)**

Statement of Supporting Justification

I, Dennis R. Nicoski, Manager, Field Sales Strategy and Contracts, am sponsoring this request that the Commission add Priority Mail Contract 168 to the list of competitive products. This statement supports the Postal Service's request by providing the information required by each applicable subsection of 39 C.F.R. § 3020.32. I attest to the accuracy of the information contained herein.

- (a) *Demonstrate why the change is in accordance with the policies and applicable criteria of the Act.*

As demonstrated below, the change complies with the applicable statutory provisions.

- (b) *Explain why, as to the market dominant products, the change is not inconsistent with each requirement of 39 U.S.C. § 3622(d), and that it advances the objectives of 39 U.S. C. § 3622(b), taking into account the factors of 39 U.S. C. § 3622(c).*

Not applicable. The Postal Service is proposing that this Priority Mail contract be added to the competitive products list.

- (c) *Explain why, as to competitive products, the addition, deletion, or transfer will not result in the violation of any of the standards of 39 U.S.C. 3633.*

The service to be provided under the contract will cover its attributable costs and make a positive contribution to coverage of institutional costs. The contract will increase contribution toward the requisite 5.5 percent of the Postal Service's total institutional costs. Accordingly, no issue of subsidization of competitive products by market dominant products arises (39 U.S.C. § 3633(a)(1)).

- (d) *Verify that the change does not classify as competitive a product over which the Postal Service exercises sufficient market power that it can without risk of losing a significant level of business to other firms offering similar products: (1) set the price of such product substantially above costs, (2) raise prices significantly; (3) decrease quality; or (4) decrease output.*

The contract sets specific terms and conditions for providing Priority Mail to the customer. Priority Mail service is provided in a highly competitive market, and the market for same-day delivery is emerging rapidly, with several companies already established in the market, and others looking to enter the market in the near future. The Postal Service is unable to set prices substantially above costs, raise prices significantly, decrease quality, or decrease output, without losing this business to private competitors in the expedited shipping market.

In negotiating this contract, the Postal Service's bargaining position was constrained by the existence of other providers of services similar to the Postal Service's. As such, the market precludes the Postal Service from taking unilateral action to increase prices or decrease service. As with Priority Mail in general, the Postal Service may not decrease quality or output without risking the loss of business to competitors that offer similar expedited delivery services. The market does not allow the Postal Service to raise prices or offer prices substantially above costs; rather, the contract is premised on prices and terms that provide sufficient incentive for the customer to ship with the Postal Service rather than a competitor.

- (e) *Explain whether or not each product that is the subject of the request is covered by the postal monopoly as reserved to the Postal Service under 189 U.S.C. 1696, subject to the exceptions set forth in 39 U.S.C. 601.*

I am advised that merchandise sent by Priority Mail and this contract are not covered by these provisions. See part (d) above.

- (f) *Provide a description of the availability and nature of enterprises in the private sector engaged in the delivery of the product.*

See part (d) above. Expedited shipping, similar to Priority Mail, is widely available from well-known and successful private firms at both published and contract prices. The market for same-day delivery is emerging rapidly, with several companies already established in the market, and others looking to enter the market in the near future. Currently, there are several companies offering some type of same-day delivery service within the eligible ZIP Codes for this contract. Those companies include a mix of large firms and small businesses.

- (g) *Provide any available information of the views of those who use the product on the appropriateness of the proposed modification.*

Having entered into this contract with the Postal Service, the customer supports the addition of the contract to the product list so that the contractual terms can be effectuated.

- (h) *Provide a description of the likely impact of the proposed modification on small business concerns.*

A mix of couriers and express delivery service companies compete within the emerging market for same-day delivery, and the Postal Service expects them to continue doing so. Other larger companies that have entered the same-day delivery market have chosen to utilize couriers or smaller delivery companies for same-day delivery. Additionally, the Postal Service has examined the market and found that many couriers and smaller delivery companies specialize – and will continue to specialize – in the delivery of time-sensitive business, legal, and financial documents, a variety of time-sensitive medical items, and perishable goods. The Postal Service's same-day delivery

offerings should not have a significant impact on the time-sensitive deliveries provided by couriers and similar small business delivery companies.

- (i) *Include such other information, data, and such statements of reasons and bases, as are necessary and appropriate to fully inform the Commission of the nature, scope, significance, and impact of the proposed modification.*

Additional details regarding the terms of the contract have been provided to the Commission under seal due to the sensitivity of the contract to both the customer and the Postal Service.